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April 14, 2008

VIA US MAIL

USPTO  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

# 77029943

|     |                 |                    |
|-----|-----------------|--------------------|
| Re: | Petitioner:     | Just Service, Inc. |
|     | Applicant:      | BountyJobs, Inc.   |
|     | Opposition No.: | 91,182,436         |

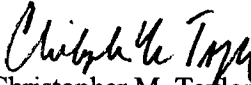
Dear Sir/Madam:

Enclosed please find the following documents for filing with the Trademark Trial and Appeal Board:

- Applicant's Reply Brief in Support of its Motion to Dismiss Opposition 91,182,436 Pursuant to Fed. R. Civ. Pro. 12(B)(6) for Failure to State a Claim Upon Which Relief May Be Granted
- Certificate of Service

Thank you in advance for your assistance in this regard. If you have any questions, please do not hesitate to call me at (734) 995-3110.

Very truly yours,

BUTZEL LONG  
  
Christopher M. Taylor

CMT/pla  
Enclosures  
cc: Paul Juettner (w/enclosures)



04-17-2008

U.S. Patent & TM Office Mail Rep'd #34

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Trademark Registration Application SN 77/029,943 (BOUNTYJOBS)**

**Filed: October 26, 2006**

|                    |   |                           |
|--------------------|---|---------------------------|
| Just Service, Inc. | ) |                           |
|                    | ) |                           |
| Petitioner         | ) |                           |
|                    | ) | Opposition No. 91,182,436 |
|                    | ) |                           |
| v.                 | ) |                           |
|                    | ) |                           |
| BountyJobs, Inc.   | ) |                           |
|                    | ) |                           |
| Applicant          | ) |                           |
|                    | / |                           |

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|   |   |
|---|---|
| <b>GREER, BURNS &amp; CRAIN, LTD.</b><br>Paul Juettner<br>300 South Wacker Drive, Suite 2500<br>Chicago, IL 60606<br>pjuettner@gbclaw.net<br>312-987-4008 (Phone)<br>312-360-9315 (Fax)<br><i>Attorney for Petitioner</i> | <b>BUTZEL LONG</b><br>Christopher M. Taylor (P63780)<br>350 South Main Street, Suite 300<br>Ann Arbor, MI 48104<br>taylorc@butzel.com<br>734-995-3110 (Phone)<br>734-995-1777 (Fax)<br><i>Attorneys for Applicant</i> |
|---|---|

**APPLICANT'S REPLY BRIEF IN SUPPORT OF ITS MOTION TO DISMISS  
OPPOSITION 91,182,436 PURSUANT TO FED. R. CIV. PRO. 12(B)(6) FOR FAILURE  
TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED**

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**TABLE OF AUTHORITIES**

**Cases**

Home Juice Co. v. Runmlin Cos., 231 U.S.P.Q. 897 (T.T.A.B. 1986) ..... 1

## **I. INTRODUCTION**

Reply briefs ought to be short and to the point. Hewing to that model, and of course, without engaging here Opposer's factual assertions, nothing in Opposer's Response Brief undermines the arguments made in Applicant's Motion to Dismiss.

## **II. ARGUMENT**

### **A. OPPOSER FAILS TO STATE FACTS IN SUPPORT OF ITS ALTERNATE SECTION 2(D) CLAIM.**

Applicant's motion to dismiss identifies the deficiency of the execution of Opposer's alternative claim, not its impossibility. Opposer has not identified any predicate facts that support its alternative claim of a likelihood of confusion. This failure is hardly surprising for there are no such facts – no alternative allegation of similarity in marks, no alternative allegation of similarity in services. Opposer's reference to Home Juice Co. v. Runglin Cos., 231 U.S.P.Q. 897 (T.T.A.B. 1986) is entirely irrelevant to the resolution of Applicant's Motion to Dismiss as the Board's decision in Home Juice arises after the taking of testimonial and documentary evidence.

### **B. THE BOARD LACKS AUTHORITY TO PROTECT "DOMAIN NAME RIGHTS".**

The alleged reduction of <bountywork.com>'s economic value that will arise if Opposer is unable to register BOUNTY WORK does not vest the Board with the authority to refuse Applicant's registration of BOUNTYJOBS. The assertion too that a domain name may be congruent with a party's trademark is insufficient to create an amorphous, novel bundle of "domain name rights". No such statutory rights exist and, therefore, their alleged violation cannot form the basis of an opposition action.

**C. THE BOARD LACKS AUTHORITY TO ISSUE DECLARATORY JUDGMENTS.**

Applicant naturally concurs that the Board has the authority to rule that there is no likelihood of confusion between BOUNTYJOBS and BOUNTY WORK, but only if properly pled and argued. Opposer has, however, failed to so raise the issue as it requested a declaratory judgment – a form of relief quite beyond the Board’s jurisdiction. If Opposer believes that there is no likelihood of confusion, then it should appeal the Examining Attorney’s rejection of its registration application, not seek to impede Applicant’s registration.

**D. APPLICANT’S SERVICES IDENTIFICATION IS DEFINITE.**

Applicant will rely upon its earlier briefing to overcome Opposer’s effort to inject itself into the examination process and its unsupported conclusion that Applicant’s services identification requires a field designation.

**III. CONCLUSION**

For the foregoing reasons as well as those articulated in its initial Brief in Support, Applicant’s Motion to Dismiss Under Fed. R. Civ. Pro. 12(b)(6) should be granted.

Respectfully submitted,

**BUTZEL LONG**



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Date: April 14, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that this day, April 14, 2008, a copy of the foregoing APPLICANT'S BRIEF IN SUPPORT OF ITS MOTION TO DISMISS OPPOSITION 91,182,436 PURSUANT TO FED. R. CIV. PRO. 12(B)(6) FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED was mailed, postage prepaid, to:

**GREER, BURNS & CRAIN, LTD.**

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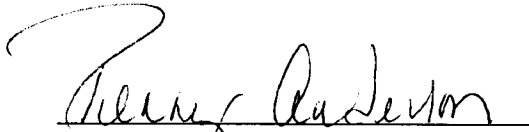
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